

would give effect to Legislative Recommendation No. 1 in the Commission's 74th Annual Report.

Under this proposed measure the Commission would be empowered to delegate to employee boards authority to make decisions in certain cases in which a public hearing has been held. The decisions of such boards would be subject to appeal to an appellate division, composed of three Commissioners, whose decisions would be administratively final.

This proposal constitutes an important part of the Commission's program to expedite the disposition of the very large number of cases coming before it, and we would, therefore, very much appreciate your assistance in having the bill introduced and arranging for early hearings thereon.

Sincerely,

EVERETT HUTCHINSON,
Chairman.

JUSTIFICATION

The attached draft bill would amend section 17 of the Interstate Commerce Act to permit the Interstate Commerce Commission, as a part of its program to improve its procedures, to delegate to boards of three or more qualified employees authority to make decisions in certain cases in which a public hearing has been held, but which do not involve issues of general transportation importance, i.e., in those cases in which the Commission has not affirmatively determined and announced that an issue of general transportation importance is involved. It would also authorize the Commission to limit appeals from such decisions to appellate divisions whose decisions would be administratively final.

The Commission's workload has increased steadily in recent years as a result of the enactment of new laws, intensified competition among the carriers, and the generally expanding economy. The effect of this has been to increase the average time within which proceedings coming before it can be disposed of. It has also had the corollary effect of making it more and more difficult for members of the Commission to find the necessary time which should be devoted to consideration of major transportation issues.

As a part of its program to remedy this situation, the Commission has already taken steps under existing law to limit the right of appeal from division decisions to the full Commission generally to those cases involving issues of general transportation importance. To this end, the Commission has also delegated additional duties to its staff, including the creation of new employee boards to consider matters arising in non-adversary or uncontested proceedings which do not involve the taking of testimony at a public hearing.

Notwithstanding the benefits to be derived from the foregoing changes in procedure and delegations of authority, there still remain a large number of cases which could be acted upon by three-man employee boards, subject to petition to an appellate division whose action would be administratively final. These are cases which do not involve issues of general transportation importance, but which are now required to be decided by a regular division of the Commission when exceptions are filed to the hearing officer's report and recommended order, or such recommended order is stayed prior to its effective date.

Since most of these cases do not involve issues of national scope or significance, but are confined to evaluating the evidence and resolving the issues in the light of established precedents, they are readily susceptible to disposition by boards of three qualified employees (subject to petition for review by an appellate division) instead of regular divisions of the Commission. This procedure is not, however, available to the Commission

under the present provisions of section 17 of the act. The attached draft bill would permit the Commission to adopt such procedure and thereby not only enable it to expedite the more routine types of cases, but also allow members of the Commission more time to devote to matters of major transportation importance. In this connection it should be emphasized that the proposed measure would not necessarily make final the actions of the proposed boards inasmuch as a right of appeal would lie to an appellate division.

More extensive use of employee boards has received the endorsement of various groups, organizations, and individuals familiar with the problems of the regulatory agencies. In addition to the Commission's own recommendations for legislation to permit further delegations of functions to employee boards as set forth in its annual reports for 1959 and 1960, greater utilization of such boards was recommended by the management firm of Booz, Allen, & Hamilton in its survey of the Commission's organization and procedures made in 1960 at the request of the Bureau of the Budget; in the October 1, 1960, report of the Special Advisory Committee of Practitioners, created by the Commission in November 1959; and in the "Report on Regulatory Agencies to the President-Elect," dated December 1960, prepared by James M. Landis, former dean of the Harvard University Law School. In urging greater use of employee boards, the Booz, Allen, & Hamilton report stated, in part, as follows:

(Vol. II, p. VII-23): "The employee board device is the most satisfactory technique available to the Commission below the level of a division for securing balanced teamwork in responsible decision making in the area of rules and other decisional activities. The existing boards work well and responsibly and dispose of much work which otherwise would find its way to the desks and councils of already overburdened commissioners."

"The use of employee boards should be much expanded."

(Vol. III, p. IX-59): "certain legislative changes will be required for major reductions in caseload at the division level and for major increases in the time available on the part of commissioners for consideration of broader aspects of regulation. Of particular importance is legislation authorizing delegation to employee boards of final jurisdiction over those elements of the overwhelming caseload which are not of national transportation importance."

While the recent actions of the Commission in creating new employee boards and of limiting appeals will contribute a great deal toward speeding up the disposition of cases and assuring members adequate time to devote to important policy considerations, the full realization of these goals cannot be achieved without enabling legislation. It is, therefore, urged that the Congress give early and favorable consideration to the amendments proposed in the attached draft bill.

IMPOSITION OF FORFEITURES FOR CERTAIN VIOLATIONS OF RULES AND REGULATIONS OF FEDERAL COMMUNICATIONS COMMISSION

Mr. MAGNUSON. Mr. President, by request of the Chairman of the Federal Communications Commission, I introduce, for appropriate reference, a bill to authorize the imposition of forfeitures for certain violations of the rules and regulations of the Federal Communications Commission in the common carrier and safety and special fields. I ask unanimous consent that the letter from the Chairman of the Commission, together with an explanation of the bill, be printed in the RECORD.

The VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, the letter and explanation will be printed in the RECORD.

The bill (S. 1668) to authorize the imposition of forfeitures for certain violations of the rules and regulations of the Federal Communications Commission in the common carrier and safety and special fields, introduced by Mr. MAGNUSON, by request, was received, read twice by its title, and referred to the Committee on Commerce.

The letter and explanation presented by Mr. MAGNUSON are as follows:

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C., April 10, 1961.
THE VICE PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: The Commission has adopted as a part of the legislative program for the 87th Congress a proposal to amend title V of the Communications Act of 1934 authorizing the imposition of forfeitures in cases of violation of certain rules and regulations (47 U.S.C. 510).

The Commission's draft bill to accomplish the foregoing objective was submitted to the Bureau of the Budget for its consideration. We have now been advised by that Bureau that from the standpoint of the administration's program there would be no objection to the presentation of the draft bill to the Congress for its consideration.

Accordingly, there are enclosed six copies of our draft bill on this subject and six copies of an explanatory statement with reference thereto.

The consideration by the Senate of the proposed amendment to the Communications Act of 1934 would be greatly appreciated. The Commission would be most happy to furnish any additional information that may be desired by the Senate or by the committee to which this proposal is referred.

Sincerely yours,

NEWTON N. MINOW,
Chairman.

EXPLANATION OF PROPOSED AMENDMENT TO TITLE V OF COMMUNICATIONS ACT OF 1934, AS AMENDED, "TO AUTHORIZE THE FEDERAL COMMUNICATIONS COMMISSION TO IMPOSE FORFEITURE IN CASES OF VIOLATION OF CERTAIN RULES AND REGULATIONS BY RADIO STATIONS IN THE NONBROADCAST SERVICES"

The attached legislative proposal amends title V of the Communications Act of 1934, as amended, by adding at the end thereof a new section 510. Its purpose is to grant to the Federal Communications Commission authority to impose monetary forfeitures for violations of certain of its rules and regulations relating to radio stations in the common carrier and safety and special fields. This proposal also provides for remission or mitigation by the Commission of such forfeitures by an appropriate amendment to section 504(b) of the Communications Act (47 U.S.C. 504(b)). The same proposal was passed by the Senate, as S. 1737, 86th Congress, on August 21, 1959.

The need for this legislation is emphasized by the rapid and phenomenal expansion in the nonbroadcast radio service since World War II due in large measure to the development of new equipment and the utilization of new portions of the frequency spectrum. Many small companies have been licensed to operate radio stations as specialized common carriers; a still greater expansion has taken place in what are known as the safety and special radio services where radio is employed for numerous diverse purposes by large groups of users such as the maritime and aviation interests, police and fire departments, electric and gas companies, for-

estry agencies, taxicab companies, highway, truck, and bus companies, etc.

As of September 30, 1960, the number of radio stations (computed on the basis of call letters assigned) in the safety and special radio services alone, had risen to 679,188. This represents an increase of several hundred percent over the stations which had been authorized in these services as of June 30, 1946.

In the number of small boats equipped for radiotelephone communications, there has been an increase of approximately 500 percent (from 18,140 to 93,561) for the period 1949 to 1960. One of the most serious enforcement problems confronting the Commission results from the chaotic conditions existing on the small boat radiotelephone frequencies between 2 and 3 megacycles. In areas where there are concentrations of these boats, the misuse of the distress frequency has prevented the transmission of emergency messages to the Coast Guard. Normal enforcement methods such as issuances of rule violation notices and suspension of operator licenses have only been partially successful. During the first quarter of the fiscal year 1961, a total of 1,068 small boat radio stations were inspected. There were 394 violation notices issued as the result of non-compliance with the Commission's regulations. In addition, 101 or 10 percent were found to be operating without authority from the Commission. Since inspection of 1,068 vessels is a very limited sampling of 93,561 boats licensed by the Commission, it is evident that disregard for the Commission's regulations is widespread. These statistics emphasize the inadequacy of the Commission's available enforcement tools in coping with this situation.

One result of the extensive increase in licensed stations in recent years has been a marked increase in the number of violations of the Commission's technical rules and regulations. This is particularly true in some of the newer private services where radio is not the principal activity of the licensee, but is utilized as an adjunct to his primary business activities, and the station operators are accordingly less concerned with the necessity for adhering to the technical rules governing the use of radio. Most of the offenses are, taken individually, of a comparatively minor nature. Collectively, however, because of their number and variety, they represent a very real menace to the orderly use of the radio spectrum and to efficient regulation by the Commission. In addition, these violations result in a serious menace to life and property in those services, such as maritime and aviation, where radio serves as a vital and necessary safety device.

The Commission has found that its existing sanctions are inadequate to handle the situation which confronts it. These existing sanctions, such as criminal penalties, revocation of licenses, and issuance of cease and desist orders, are normally too drastic for the relatively minor types of offenses involved, and too cumbersome and time consuming considering the multitude of violations that occur. In aggravated cases, these more drastic sanctions are, of course, available for use. However, the Commission is reluctant in any event to take action which will result in depriving a licensee of radio when it is being used for safety purposes, such as on an aircraft or a ship.

Congress has recognized the need for this type of forfeiture authority and has given it to various Government agencies. Thus, Congress has made a broad provision for civil penalties for violations of the Civil Aeronautics Act and certain regulations issued under that act (49 U.S.C. section 62). And see, also, 8 U.S.C. section 1321, et seq. (aliens and nationality); 46 U.S.C. section 526(o) and (p) (motorboats); 49 U.S.C. section 181(b) (aircraft); 49 U.S.C. section 322(h)

(motor carriers); and 49 U.S.C. section 621 (inland waterways and air carriers). Moreover, Congress has already given such authority to the Federal Communications Commission, with respect to common carriers under title II of the Communications Act of 1934, as amended, as to those ships which are required to carry radio equipment pursuant to the provisions of Part II and Part III of title III of that act, and also as to broadcast station licenses (47 U.S.C. 351-364 and 381-386 and 74 Stat. 893-895).

The proposal provides that forfeiture liability shall attach only for a willful, negligent, or repeated violation of the provisions enumerated in the new section 508 to be added to the Communications Act. It further fixes a maximum forfeiture liability of \$100 for the violation of the provisions of any one paragraph of the proposed section 508 and an overall maximum liability of \$500 for all violations of such section occurring within 90 days prior to the date a notice of apparent liability is sent. The Commission is required to give a notice of apparent liability to such person or send it to him by registered mail and to set forth therein facts which indicate apparent liability. The person so notified of apparent liability is given the right to show cause in writing why he should not be held liable and to request a personal interview with an official of the Commission at the field office of the Commission nearest to that person's place of residence.

Procedural safeguards are available to a person charged with forfeiture liability. Not only has he the right under section 5(d) of the Communications Act (47 U.S.C. 155(d)) to request a review of Commission action taken, but by the extension to the new proposal of the remission and mitigation provisions of section 504(b) of the Communications Act (47 U.S.C. 504(b)) he is afforded a further opportunity to show cause why he should not be held liable. Should such person refuse to pay the amount of a forfeiture as finally determined, he could, by such refusal, cause the United States, if it so elects, to institute a civil suit against him, as provided in section 504(a) of the Communications Act (47 U.S.C. 504(a)), thereby further contesting the validity of the asserted forfeiture liability. Thus, adequate safeguards would be available for the protection of the legal rights of a person against whom a forfeiture liability is asserted.

PROPOSED LEGISLATION RELATING TO INTERSTATE COMMERCE

Mr. MAGNUSON. Mr. President, I introduce, for appropriate reference, two bills relating to interstate commerce. I ask unanimous consent that the bills lie on the desk for 1 week in order to afford Senators the opportunity to cosponsor them if they so desire.

The VICE PRESIDENT. The bills will be received and appropriately referred; and, without objection, the bills will lie on the desk, as requested by the Senator from Washington.

The bills, introduced by Mr. MAGNUSON, were received, read twice by their titles, and referred to the Committee on Commerce, as follows:

S. 1669. A bill to provide that the Interstate Commerce Commission shall prescribe rules, standards, and instructions for the installation, inspection, maintenance, and repair of certain parts on railroad cars, and to require carriers by railroad to maintain tracks, bridges, roadbed, and permanent structures for the support of way, trackage, and traffic in safe and suitable condition, and for other purposes; and

S. 1670. A bill to amend the Interstate Commerce Act, as amended, so as to strengthen and improve the national transportation system, insure the protection of the public interest, and for other purposes.

AGREEMENT FOR THE ESTABLISHMENT OF THE CARIBBEAN ORGANIZATION

Mr. FULBRIGHT. Mr. President, by request, I introduce for appropriate reference a joint resolution providing for acceptance by the United States of America of the Agreement for the Establishment of the Caribbean Organization signed at Washington on June 21, 1960, by the Governments of the Republic of France, the Kingdom of the Netherlands, the United Kingdom of Great Britain and Northern Ireland, and the United States of America.

The proposed legislation has been requested by the Secretary of State, and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments. It is my hope that hearings will be scheduled on the joint resolution in the near future, since the agreement was signed last year and submitted for congressional approval in January.

I reserve my right to support or oppose this joint resolution, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the joint resolution may be printed in the RECORD at this point, together with the letter from the Secretary of State, dated January 19, 1961 to the Vice President in regard to it, together with the attached agreement. I might add that the committee is also in receipt of a letter dated February 9, 1961 from the Secretary of State, Mr. Rusk, in support of this legislation.

The VICE PRESIDENT. The joint resolution will be received and appropriately referred; and, without objection, the joint resolution, letter, and agreement will be printed in the RECORD.

The joint resolution (S.J. Res. 75) providing for acceptance by the United States of America of the Agreement for the Establishment of the Caribbean Organization signed by the Governments of the Republic of France, the Kingdom of the Netherlands, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, introduced by Mr. FULBRIGHT, by request, was received, read twice by its title, referred to the Committee on Foreign Relations, and ordered to be printed in the RECORD, as follows:

Whereas representatives of the Governments of the Republic of France, the Kingdom of the Netherlands, the United Kingdom of Great Britain and Northern Ireland, and the United States of America signed at Washington on June 21, 1960 the "Agreement for the Establishment of the Caribbean Organization" to replace the agreement signed at Washington on October 30, 1946, establishing the Caribbean Commission in which the Government of the United States of America participates by authority of the Joint Resolution of March 4, 1948, 62 Stat. 65, 22 U.S.C. 280h; and